

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA

Plaintiff,

vs.

ANTHONY D. ELEM,

Defendant.

8:08CR426

DETENTION ORDER

A. Order For Detention

After conducting a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act on November 26, 2008, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i). The Order Setting Conditions of Release (Filing No. 12) is rescinded.

B. Statement Of Reasons For The Detention

The Court orders the defendant's detention because it finds:

- X By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.
- X By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community.

C. Finding Of Fact

The Court's findings are based on the evidence which was contained in the Pretrial Services Report, and includes the following:

- X (1) Nature and circumstances of the offense charged:
- X (a) The crime: possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g) carries a maximum sentence of ten years imprisonment.
- _____ (b) The offense is a crime of violence.
- _____ (c) The offense involves a narcotic drug.
- _____ (d) The offense involves a large amount of controlled substances, to wit:
- _____
- X (2) The weight of the evidence against the defendant is high.
- X (3) The history and characteristics of the defendant including:
- (a) General Factors:
- _____ The defendant appears to have a mental condition which may affect whether the defendant will appear.
- _____ The defendant has no family ties in the area.
- _____ The defendant has no steady employment.
- _____ The defendant has no substantial financial resources.
- _____ The defendant is not a long time resident of the community.
- _____ The defendant does not have any significant community ties.
- _____ Past conduct of the defendant:
- X The defendant has a history relating to drug abuse.
- _____ The defendant has a history relating to alcohol abuse.
- X The defendant has a significant prior criminal record.
- _____ The defendant has a prior record of failure to appear at court proceedings.
- (b) At the time of the current arrest, the defendant was on:
- _____ Probation or Supervised Release
- _____ Parole

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_____ Release pending trial, sentence, appeal or completion of sentence.

(c) Other Factors:

_____ The defendant is an illegal alien and is subject to deportation.

_____ The defendant is a legal alien and will be subject to deportation if convicted.

_____ The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal.

_____ Other: _____

- X (4) The nature and seriousness of the danger posed by the defendant's release are as follows: the nature of the charges in the Indictment, the defendant's criminal history, the defendant's drug abuse history, and the circumstances of his arrest for possession of the firearm in question wherein the defendant told police officers "I was bred to kill nigas," "I should have shot him in the head," following the defendant's brandishing a loaded firearm at a night club.

D. **Additional Directives**

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and
2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: December 1, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge